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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/768,686 | 01/24/2001 | William B. Busa | 16585.6.2 | 3892 |
| 22913 | 7590 | 08/01/2007 | EXAMINER | |
| WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111 | | | ZHOU, SHUBO | |
| | | ART UNIT | PAPER NUMBER | |
| | | 1631 | | |
| | | MAIL DATE | DELIVERY MODE | |
| | | 08/01/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/768,686 | BUSA, WILLIAM B. | |
| | Examiner Shubo (Joe) Zhou | Art Unit 1631 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 5/21/07.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 23-28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's request for reconsideration and amendments filed 5/21/07 are acknowledged and the amendments entered.

Claims 23-28 are currently pending and under consideration.

Withdrawn Rejections/Objections

The objection to the specification set forth in the previous Office action is hereby withdrawn in view of applicant's amendment filed 5/21/07.

The rejection of claims 23-27 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter is hereby withdrawn in view of applicant's amendments to the set of claims filed 5/21/07.

The rejection of claims 22-27 under 35 U.S.C. 112 , second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention set forth in the previous office action is hereby withdrawn in view of the amendment filed 5/21/07 and in view of the withdrawal of the rejection under 35 USC 101 above.

The following rejections/objections are newly applied.

Claim Rejections-35 USC § 112

The following is a quotation of the **first** paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection.

The amendment to claim 23 filed 12/6/06 introduced to the claim an equation as follows:

$$L_{AB} = p(A|B)^* p(-A|-B)^* p(A|B)^* p(-A|-B)$$

This equation is deemed new matter because the specification does not provide adequate description to the equation although the specification on page 31 describes an equation $L_{AB} = p(A|B)^* p(-A|-B)^* p(B|A)^* p(-B|-A)$.

The following is a quotation of the **second** paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23-28 are rejected under 35 U.S.C. 112 , second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 introduces a “wherein” clause in the end that recites “wherein ... $p(B|A)$ =” The phrase lacks sufficient antecedent basis because there is no prior reference to $p(B|A)$ in the claim. Furthermore, “wherein” clause is confusing because it is first

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stated that "wherein $p(-A|B) = (\text{the probability of not } A \text{ given not } B)$," but it is also stated that "wherein $p(-A|B) = (\text{the probability of not } AB \text{ given not } A)$."

Conclusion

No claim is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. §1.136 (a). A shortened statutory period for response to this final action is set to expire three months from the date of this action. In the event a first response is filed within two months of the mailing date of this final action and the advisory action is not mailed until after the end of the three-month shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136 (a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than six months from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shubo (Joe) Zhou, whose telephone number is 571-272-0724. The examiner can normally be reached Monday-Friday from 8 A.M. to 4 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Ram Shukla, Ph.D., can be reached on 571-272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

/Shubo (Joe) Zhou/

SHUBO (JOE) ZHOU, PH.D.

PRIMARY EXAMINER